

APPEAL NO. 040940
FILED JUNE 14, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 7, 2004. With respect to the single issue before him, the hearing officer determined that respondent 2's (claimant) compensable injury of _____, extends to a rotator cuff tear of the left shoulder. In its appeal, the appellant (carrier) argues that the hearing officer's determination in that regard is against the great weight of the evidence. The appeal file does not contain a response to the carrier's appeal from the claimant or respondent 1 (subclaimant), the hospital and surgeon for the claimant's second shoulder surgery.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, includes a rotator cuff tear of the left shoulder. That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence on the disputed issue and the hearing officer was acting within his province as the fact finder in giving more weight to the evidence tending to demonstrate the causal connection between the claimant's compensable injury and the left rotator cuff tear. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSSELL RAY OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701-3403.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge